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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/748,412	12/21/2000	Wouter E. Roorda	50623.26	3752

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EXAMINER

PHAN, HIEU

ART UNIT	PAPER NUMBER
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3738

DATE MAILED: 07/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/748,412

Applicant(s)

ROORDA, WOUTER E.

Examiner

Hieu Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4, 10, 12, 18-20 and 24-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-4, 10, 12, 18-20 and 24-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Response to Amendment

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 3, 18-20, 24 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Fearnot et al. (U.S. Patent 5,609,629).

Fearnot et al. disclosed a porous stent (10) having second region (18) with component for reducing infiltration of macrophages (column 8 lines 46-67, column 9 lines 1-26) and first region (20 and or 24) with component for reducing or preventing the formation of thrombi (column 12 lines 39-41, Abstract, column 2 lines 66 and 67, column 3 lines 1-16 and 30-67, column 4 lines 23-39 and 48-61, column 5 lines 12-47 and column 7 lines 5-22 and 30-47).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fearnot et al. (U.S. Patent 5,609,629) in view of Palasis et al. (U.S. Patent 6,638,259).

Fearnot et al. discloses a porous stent (10) having second region (18) with component for reducing infiltration of macrophages (column 8 lines 46-67, column 9 lines 1-26) and first region (22), Fearnot et al. however fails to disclose a second layer comprising an anti-inflammatory substance such as prednisolone.

Palasis et al. teach a stent having a coating containing prednisolone. The advantages of having the coating containing prednisolone are prednisolone is anti-inflammatory substance, which help to promote healing and reduce the risk of having the implant reject by the patient's immune system.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaching of Palasis et al. to modify the apparatus Fearnot et al. to the second layer comprising an anti-inflammatory substance such as prednisolone. The motivations for incorporating the feature of Palasis et al. into the apparatus of Fearnot et al. are prednisolone is anti-inflammatory substance, which help to promote healing and reduce the risk of having the implant reject by the patient's immune system.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fearnot et al. (U.S. Patent 5,609,629) in view of Okada et al. (U.S. Patent 4,879,907).

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Fearnot et al. is explained as before. Fearnot et al. further lacking the coating includes an ethylene vinyl alcohol copolymer.

Okada et al. discloses a synthetic vascular prosthesis having a hydrogel layer made of ethylene vinyl alcohol copolymer (column 3 lines 33-40). The advantages of having a hydrogel layer are the hydrogel have good antithromobogenic property and good durability.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaching of Myers et al. to modify the apparatus Fearnot et al. to have a coating includes an ethylene vinyl alcohol copolymer. The motivations for incorporating the feature of Myers et al. into the apparatus of Fearnot et al. are the hydrogel have good antithromobogenic property and good durability.

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fearnot et al. (U.S. Patent 5,609,629) in view of Palasis et al. (U.S. Patent 6,638,259) and further in view of Okada et al. (U.S. Patent 4,879,907).

Fearnot et al. is explained as before. Fearnot et al. further lacking the coating includes an ethylene vinyl alcohol copolymer.

Palasis et al. teach a stent having a coating containing prednisolone. The advantages of having the coating containing prednisolone are prednisolone is anti-inflammatory substance, which help to promote healing and reduce the risk of having the implant reject by the patient's immune system.

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Okada et al. discloses a synthetic vascular prosthesis having a hydrogel layer made of ethylene vinyl alcohol copolymer (column 3 lines 33-40). The advantages of having a hydrogel layer are the hydrogel have good antithromobogenic property and good durability.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaching of Myers et al. to modify the apparatus Fearnot et al. to have a coating includes an ethylene vinyl alcohol copolymer. The motivations for incorporating the feature of Myers et al. into the apparatus of Fearnot et al. are the hydrogel have good antithromobogenic property and good durability.

8. Claim 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Fearnot et al. (U.S. Patent 5,609,629) in view of Myers et al. (U.S. Patent 5,925,075).

Fearnot et al. is explained as before. Fearnot et al. further lacking the second layers is made of a material comprising poly-tetra-fluoro-ethylene.

Myers et al. discloses intraluminal stent graft having a stent (10) with a PTFE coating (20) (column 4 lines 51-63 and Example 1). The advantages of having a layer made of PTFE is PTFE has good biocompatible property.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the teaching of Myers et al. to modify the apparatus Fearnot et al. to have a layer made of PTFE. The motivation for incorporating the feature of Myers et al. into the apparatus of Fearnot et al. is PTFE has good biocompatible property.

Response to Arguments

9. Applicant's arguments filed 05/17/2005 have been fully considered but they are not persuasive. Fearnot et al. clearly disclosed a second region (18) with a component for reducing infiltration of macrophages (column 8 lines 46-67, column 9 lines 1-26) and a separate first region (20 and or 24) with component for reducing or preventing the formation of thrombi such as hirudin and heparin (figures 2 and 3 and column 12 line 34). Therefore, rejection by Fearnot et al. (U.S. Patent 5,609,629) is proper.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hieu Phan whose telephone number is 703-308-8969.

The examiner can normally be reached on Monday-Friday from 8am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine M McDermott can be reached on 703-308-2111. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hieu Phan
Examiner
Art Unit 3738



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